

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRADLEY SHUCK, and GREGORY	)	
SHUCK,	)	
	)	
Plaintiffs,	)	4:05CV3277
	)	
v.	)	
	)	
CNH AMERICA,	)	MEMORANDUM AND ORDER
	)	
Defendant.	)	
	)	

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The plaintiffs' suit was originally filed in the District Court of Clay County, Nebraska. The defendants removed the case to this court and requested place of trial in Lincoln, Nebraska. Filing 1. Pending before me is the plaintiffs' motion to transfer this case to the North Platte trial docket. Filing 5.

In support of this motion, the plaintiffs state they are residents of Edgar, Clay County, Nebraska; the fire which is the subject of plaintiffs' action occurred in Nuckolls County, Nebraska; plaintiffs' counsel maintains his business in Grand Island, Nebraska; and "North Platte, Nebraska is a more convenient forum for the Plaintiffs, potential witnesses in this action, and Plaintiffs' counsel." Filing 5, Ex. A (Placzek affidavit).

The defendant responds that Clay County, Nuckolls County, and Grand Island, Nebraska are all closer to Lincoln than North Platte, Nebraska; and the defendant's witnesses are from Grand Island and Omaha, making Lincoln, Nebraska the closer trial location for the defendant's witnesses.

The plaintiffs' motion to transfer the trial location is governed by this court's local rules. NECivR 40.1(b)(2) provides

that "[t]he judge may resolve conflicting requests [for place of trial] without oral argument" and "shall consider the convenience of the litigants, witnesses, and counsel when deciding the place of trial." The evidence before me reflects that Lincoln, Nebraska is a more convenient location for the witnesses and litigants than North Platte. Nuckolls County and Edgar, Clay County, Nebraska are each approximately 115 miles from Lincoln, but over 230 miles from North Platte. Grand Island is 100 miles from Lincoln and 145 miles from North Platte. Omaha is 60 miles from Lincoln and 280 miles from North Platte. Though the plaintiffs' counsel offers the conclusory statement that North Platte is the more convenient forum for the plaintiffs, their witnesses, and their counsel, they have not identified any witness who lives closer to North Platte than Lincoln, and all other evidence indicates Lincoln is the closer and more convenient forum for the parties, their witnesses, and their counsel.

IT THEREFORE HEREBY IS ORDERED: Plaintiff's motion to change the place of trial, filing 5, is denied, and the place of trial for this case remains Lincoln, Nebraska.

DATED this 23<sup>rd</sup> day of November, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge